

Standards Committee

AGENDA STATUS: PUBLIC

Report Title	REGULATION OF INVESTIGATORY POWERS ACT 2000 – HOME OFFICE UPDATE AND PRESS RELEASE ON RESPONSE TO CONSULTATION EXERCISE BY HOME OFFICE
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Date of Meeting:	17 December 2009
Directorate:	Borough Solicitor and Monitoring Officer
Ward(s)	All

1. Summary

This report provides a brief update on the consultation responses and proposed way forward following the Governments aim to reform this area.

2. Recommendations

The Committee is requested to note the contents of the update and the press release.

3. Report Background

- 3.1 Passed in 2000, the Regulation of Investigatory Powers Act (called RIPA), created a regulatory framework to govern the way public authorities handle and conduct covert investigations.
- 3.2 However a small number of local authorities were perceived to be authorising techniques under RIPA in circumstances when it was widely accepted that it was not necessary or proportionate for them to do so.
- 3.3 In order to prevent this happening, the Home Office published a consultation paper in April 2009 seeking responses from public authorities to a series of questions. The Home Office proposed to use the responses received to help it make changes to the law to help it get the balance right between supporting law enforcement and respecting privacy.
- 3.4 The Consultation questions and the Council's response, which was submitted in July 2009, are attached as appendix 1.
- 3.5 Following a consideration of the 222 responses received by the Home Office, it published an update on the 2009 consultation in November 2009, which is attached at appendix 2.

- 3.6 A press release was also made at this time and this is attached at appendix 3.
- 3.7 The main points to note about the proposed changes to the law are that any new law will:
- a) clarify the test of necessity and proportionality so techniques will not be used for trivial purposes such as investigating dog fouling or people putting bins out a day early
 - b) raise the rank of authorising officer for RIPA techniques in local authorities to senior executive at a minimum of 'Director' level.
 - c) give elected councillors a role in overseeing the way local authorities use covert investigatory techniques
 - d) require constituents' communications with MPs on constituency business to be treated as confidential information, and therefore subject to authorisation by a higher rank of officer
 - e) treat covert surveillance of legal consultations as 'intrusive' rather than 'directed' surveillance, meaning that it can only be carried out by a very limited number of public authorities, primarily the police and intelligence agencies, and only with independent approval
 - f) clarify how provisions currently in the Policing and Crime Bill will reduce bureaucracy relating to RIPA in police collaborative units comprising two or more forces
- 3.8 The Home Office also intends to require each local authority to appoint a single official to be responsible for ensuring that all authorising officers are of an appropriate standard. This new role will have to be filled by a member of the corporate management team to whom authorising officers will report.
- 3.9 The Responses highlighted to the Home Office that the key to effective and appropriate use of RIPA techniques was training, rather than the rank of authorising officers. Together with the relevant Local Government organisations the Home Office intends to establish a package of accredited training for local authority authorising officers, and, in addition, to prepare bespoke written guidance on how local authorities should use RIPA.
- 3.10 The Home Office accepts that a wide range of public authorities need to be able to authorise key techniques under RIPA in order to protect the public from those who would do harm. However the Home Office also accepts that it is equally clear that public authorities must respect the right to privacy and only use techniques under RIPA when it is necessary and proportionate to do so.

4. Implications (including financial implications)

4.1 Resources and Risk

There are none- apart from, the resources needed to arrange training for members on any points arising.

4.2 Legal

No specific points to mention at this time

4.3 Other Implications

By keeping abreast of Government responses to consultations such as these members will find it easier to perform their tasks on the various sub-committees, which are involved in the determination of any issues that may arise.

5. Background Papers

None

Report Author and Title: Nikolas Jacob, Solicitor, on behalf of
Francis Fernandes Borough Solicitor and Monitoring Officer

Telephone and Email: 837334 ffernandes@northampton.gov.uk